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10 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 ILSE CAPPEL,

15 Respondent.

Case No. AC-2003-33

OAH No. L-2003100173

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17
18 FINDINGS OF FACT

19 1. On or about July 10, 2003, Complainant Carol Sigman, in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs, filed Accusation No. AC-2003-33 against ILSE CAPPEL (Respondent)
22 before the California Board of Accountancy.

23 2. On or about October 9, 1987, the California Board of Accountancy
24 (Board) issued Certified Public Accountant No. CPA 48948 to Respondent. The certificate
25 expired on May 31, 2002, and has not been renewed.

26 3. On or about July 16, 2003, Mona Sebastian, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
28 AC-2003-33, Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
2 with the Board, which was and is 4204 Via Mar De Delinas, San Diego, CA 92130. A copy of
3 the Accusation, the related documents, and Declaration of Service are attached as exhibit A, and
4 are incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. On or about July 31, 2003, Respondent signed and returned a Notice of
8 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at
9 Respondent's address of record and it informed her that an administrative hearing in this matter
10 was scheduled for June 4, 2004. Respondent failed to appear at that hearing. A copy of
11 Respondent's Notice of Defense, the Notice of Hearing, and Declaration of Service are attached
12 hereto as exhibit B, and are incorporated herein by reference.

13 6. Government Code section 11506 states, in pertinent part:

14 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
16 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
17 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

18 7. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions or
21 upon other evidence and affidavits may be used as evidence without any notice to
22 respondent."

23 8. Pursuant to its authority under Government Code section 11520, the Board
24 finds Respondent is in default. The Board will take action without further hearing and, based on
25 Respondent's express admissions by way of default and the evidence before it, contained in
26 exhibits A, B and C, finds that the allegations in Accusation No. AC-2003-33 are true.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent ILSE CAPPEL has
3 subjected her Certified Public Accountant No. CPA 48948 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of
5 Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The California Board of Accountancy is authorized to revoke Respondent's
8 Certified Public Accountant based upon the following violations alleged in the Accusation:

9 a. The certificate of a Certified Public Accountant held by respondent
10 CAPPEL is subject to discipline under Business and Professions Code section 5100(a), in that on
11 November 22, 2002, in the United States District Court, Southern District of California, Case No.
12 02CR3104W, respondent was convicted upon her plea of guilty of violating 18 U.S.C. sections
13 371 and 1344 (conspiracy to commit bank fraud), a felony.

14 b. The certificate of Certified Public Accountant held by respondent
15 CAPPEL is subject to discipline under Business and Professions Code section 5100(g) [formerly
16 Business and Professions Code section 5100(f)], for a violation of Business and Professions
17 Code section 5063(a)(3)¹, in that respondent entered a guilty plea in the criminal proceeding
18 described in paragraph 6 hereinabove, and has failed to report to the Board concerning such
19 conviction.

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27 1. Although the language of conviction alleged in paragraph 11 of the Accusation is
28 correctly that of Business and Professions Code section 5063(a)(1), the identifying section
number inadvertently states Business and Professions Code section 5063(a)(3).

1 ORDER

2 IT IS SO ORDERED that Certified Public Accountant No. CPA 48948,
3 heretofore issued to Respondent ILSE CAPPEL, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
8 statute.

9 This Decision shall become effective on October 15, 2004.

10 It is so ORDERED September 15, 2004

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12
13 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

14 80030226.wpd
15 DOJ docket number:SD2003800128

16 Attachments:

17 Exhibit A: Accusation No.AC-2003-33, Related Documents, and Declaration of Service
18 Exhibit B: Notice of Defense, Notice of Hearing, and Declaration of Service
19 Exhibit C: Declaration of Costs
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Exhibit A

Accusation No. AC-2003-33,
Related Documents and Declaration of Service

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of the State of California
2 TIMOTHY L. NEWLOVE, State Bar No. 73428
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CALIFORNIA BOARD OF ACCOUNTANCY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. AC-2003-33

14 ILSE CAPPEL
4204 Via Mar De Delfinas
15 San Diego, California 92130

ACCUSATION

16 Certified Public Accountant
Certificate No. CPA 48948

17 Respondent.
18

19 Complainant alleges:

20 1. The Complainant, Carol Sigmann, is the Exesutive Officer of the California
21 Board of Accountancy (hereinafter the "Board") and makes this Accusation solely in her official
22 capacity.

23 2. On October 9, 1987, the Board issued to respondent ILSE CAPPEL
24 (hereinafter "CAPPEL") a certificate, No. 48948, of Certified Public Accountant, to practice
25 accountancy in the State of California pursuant to the Accountancy Act, Division 3, Chapter 1,
26 section 5000 et seq., of the California Business and Professions Code. Said certificate expired on
27 May 31, 2002, and has not been renewed.

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1 and business performance appear far healthier than they were. Peregrine's stock price dropped
2 precipitously.

3 b. Among the accounting irregularities engaged in by Peregrine was the
4 manipulation of the "DSO," which stands for "Days Sales Outstanding." This is a numerical
5 calculation that, in essence, reveals how many days it takes a company to collect its accounts
6 receivable. The larger the number, the more likely analysts will call into question the quality of
7 the receivables, and the related revenue. Securities analysts pay attention to a company's DSO in
8 judging the health of the company, and the value of its stock.

9 c. Peregrine's management was very concerned about keeping its DSO
10 below a certain number in part because management had previously provided guidance to
11 analysts about the expected DSO number. Keeping the DSO low was problematic for
12 management in part because of Peregrine's practice of recording contingent sales (e.g. sales to
13 resellers who were allowed to delay payment until their sell-through to an end user) as revenue
14 before satisfaction of the contingency on which payment to Peregrine depended. These revenues,
15 once improperly recorded, would remain uncollected receivables for extended periods, raising
16 Peregrine's DSO beyond normal levels, thereby raising concern among securities analysts and
17 possibly exposing Peregrine's improper revenue recognition practices. To avoid this, Peregrine
18 sold accounts receivable to banks. By doing so, the DSO could be lowered significantly. The
19 banks, however, would purchase the accounts receivable only if they were valid, enforceable, and
20 based on completed transactions.

21 d. For the purpose of improperly manipulating the DSO, Peregrine sold
22 accounts receivable to Wells Fargo HSBC Trade Bank, N.A., that were not valid, enforceable
23 and based on completed transactions. Peregrine thereby defrauded a bank, the deposits of which
24 were insured by the Federal Deposit Insurance Corporation.

25 e. Respondent CAPPEL began working in Peregrine's accounting
26 department in 1993. After Peregrine went public in 1997, CAPPEL became the Treasury
27 Manager, and was responsible for cash management and forecasting, collection, and accounts
28 receivable, among other things. Although her responsibilities changed somewhat over time,

1 CAPPEL remained responsible for the sale of accounts receivable until she left Peregrine in June,
2 2002. Her title at the time was Assistant Treasurer.

3 f. Between in or about June 1999 and June 2002, respondent CAPPEL
4 conspired with others at Peregrine to improperly manipulate Peregrine's DSO by creating
5 fictitious invoices with various transaction partners that were sold to the bank as if they were
6 valid, enforceable accounts receivable.

7 g. As part of this conspiracy and scheme to defraud, respondent CAPPEL,
8 Assistant Treasurer of Peregrine, and others, fabricated a Peregrine invoice to KPMG Consulting
9 LLC, dated June 29, 2001, for \$19,580,596.00, that was sold to Wells Fargo HSBC Trade Bank,
10 N.A., as if it were a valid, enforceable account receivable, based on a completed transaction with
11 KPMG Consulting, when in actual fact, it was not, because Peregrine had no valid contract with
12 KPMG Consulting LLC at that time for that amount under those terms.

13 SECOND CAUSE FOR DISCIPLINE

14 Untimely Reporting

15 8. Complainant incorporates herein by this reference the preamble and each
16 of the allegations set forth in paragraphs 1 through 7 hereinabove.

17 9. Business and Professions Code section 5063 provides that a licensee shall
18 report to the Board in writing certain reportable events, including the conviction of the licensee
19 of a felony and a crime related to the qualifications, functions, or duties of a certified public
20 accountant.

21 10. Business and Professions Code section 5100(g) [formerly Business and
22 Professions Code section 5100(f)] provides that unprofessional conduct includes a wilful
23 violation of the Accountancy Act.

24 11. The certificate of Certified Public Accountant held by respondent
25 CAPPEL is subject to discipline under Business and Professions Code section 5100(g) [formerly
26 Business and Professions Code section 5100(f)], for a violation of Business and Professions
27 Code section 5063(a)(3), in that respondent entered a guilty plea in the criminal proceeding

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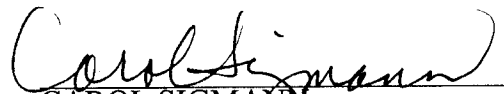
1 described in paragraph 6 hereinabove, and has failed to report to the Board concerning such
2 conviction.

3
4 PRAYER

5 WHEREFORE, the Complainant requests that a hearing be held on the matters
6 herein alleged, and that following said hearing, the Board issue a decision:

- 7 a. Revoking, suspending or otherwise imposing discipline upon Certified
8 Public Accountant Certificate No. 48948, heretofore issued to ILSE CAPPEL; and
9 b. Taking such other further action as may be deemed proper.

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11 DATED: July 10, 2003.
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14 
15 CAROL SIGMANN
16 Executive Officer
17 California Board of Accountancy
18 Department of Consumer Affairs
19 State of California

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26 Complainant

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11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

14 ILSE CAPPEL

15 Respondent.

Case No. AC 2003-33

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

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17
18 TO RESPONDENT:

19 Under section 11507.6 of the Government Code of the State of California, parties
20 to an administrative hearing, including the Complainant, are entitled to certain information
21 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
22 Government Code concerning such rights is included among the papers served.

23 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
24 ARE HEREBY REQUESTED TO:

- 25 1. Provide the names and addresses of witnesses to the extent known to the
26 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
27 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
28 the following in the possession or custody or under control of the Respondent:

1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative
4 proceeding;

5 b. A statement pertaining to the subject matter of the proceeding made by any
6 party to another party or persons;

7 c. Statements of witnesses then proposed to be called by the Respondent and
8 of other persons having personal knowledge of the acts, omissions or events which are the
9 basis for the proceeding, not included in (a) or (b) above;

10 d. All writings, including but not limited to reports of mental, physical and
11 blood examinations and things which the Respondent now proposes to offer in evidence;

12 e. Any other writing or thing which is relevant and which would be
13 admissible in evidence, including but not limited to, any patient or hospital records
14 pertaining to the persons named in the pleading;

15 f. Investigative reports made by or on behalf of the Respondent pertaining to
16 the subject matter of the proceeding, to the extent that these reports (1) contain the names
17 and addresses of witnesses or of persons having personal knowledge of the acts,
18 omissions or events which are the basis for the proceeding, or (2) reflect matters
19 perceived by the investigator in the course of his or her investigation, or (3) contain or
20 include by attachment any statement or writing described in (a) to (e), inclusive, or
21 summary thereof.

22 For the purpose of this Request for Discovery, "statements" include written
23 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
24 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
25 and written reports or summaries of these oral statements.

26 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
27 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
28 is privileged from disclosure by law or otherwise made confidential or protected as attorney's

1 work product.

2 Your response to this Request for Discovery should be directed to the undersigned
3 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
4 **30 days after service** of the Accusation.

5 Failure without substantial justification to comply with this Request for Discovery
6 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
7 of the Government Code.

8 DATED: July 16, 2003.

BILL LOCKYER, Attorney General
of the State of California

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11 T. L. Newlove (mss)

12 TIMOTHY L. NEWLOVE
13 Deputy Attorney General

14 Attorneys for Complainant
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24 T.L.N:mss 7/16/03
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